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The Sesquicentennial of the Virginia Bill of Rights

By DR. ROSCOE POUND, Dean of the Law School of Harvard University

IT WOULD be idle to pretend that the Bill of Rights adopted at Williamsburg 150 years ago was something in all respects wholly new. Except as an act of omnipotence, creation is never a making of something out of nothing. There were abundant historical and philosophical materials, both political and legal. There was a long course of philosophical speculation, culminating in the politico-juristic theories as to the natural rights of man. There was a series of declaratory instruments going back to the Middle Ages, and the oldest of these had been made a legal instrument by the authoritative commentary of Sir Edward Coke. There had been the pronouncement in Magna Charta as to what the King would do and would not do in his relations with his tenants in chief. Under Charles I. Parliament had claimed by the petition of right, and the King had admitted, certain of the political rights of Englishmen as they had been recognized in the past. At the revolution of 1688 these and other rights were again declared, and received the sanction of an act of Parliament under the name of the Bill of Rights. In 1774 the Continental Congress had put forth a declaration of rights. But the Virginia Bill of Rights of 1776 is

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the first and, indeed, is the model of a long line of politico-legal documents that have become the staple of American constitutional law. Although left out of the original draft of the Constitution of the United States, a Bill of Rights was at once incorporated by amendment, and in effect the amendments that gave us one for our Federal Government were a condition of ratification. All the states have put Bills of Rights in their fundamental law, and to-day no one would think of an American Constitution without one. Moreover, in actual application in the courts, the Bills of Rights, both in the Federal and in the State Constitutions, are the most frequently invoked and constantly applied provisions of those instruments.

Nor has the Virginia Bill of Rights been conspicuous only as a model. With all allowance for the historical documents that went before it, it must be pronounced a great creative achievement. It is pre-eminently a legal document. More than any other part of the Federal Constitution, the Bill of Rights has compelled recognition that the Constitution is the law of the land. It is not too much to say that the Bill of Rights and its derivatives have stood for and now stand for the Constitution in almost all legal, as distinguished from political, connections. It is a creative instrument, because it uses and reshapes traditional legal materials by a philosophical method. Thus it is able to put concrete legal propositions universally and make it possible to employ them in a wholly different society, and under wholly different social and economic surroundings, 150 years after they were formulated. . . .

We must recognize that the Bill of Rights was drawn up in a pioneer, rural, agricultural society. In a sense it was drawn up for such a society. Often it is conceived in terms of such a society. Yet to-day it must operate in an urban, industrial society. What may we expect of it under such circumstances? Very likely if its provisions were to be applied as a body of hard and fast rules, made once for all as exactly formulated legal precepts in the eighteenth century by men who are assumed to have had the one key to reason and to have used it once for all time, the application of the Bill of Rights to the legislation of the present and of the immediate future might arouse controversies between the courts and the people, resulting in much injury to our common-law doctrine of the supremacy of law. But for three reasons I have little fear that this will happen.

In the first place, such an application of the Bill of Rights presupposes a judicial attitude which is not that of the common law. When our judges, themselves brought up in and filled with the ideas of the

pioneer, rural, agricultural society of the past, first came upon the type of law that is more and more demanded by the urban, industrial society of to-day, of necessity there was misunderstanding and groping and a laying out of temporary legal paths by the method of trial and error. But our common-law technique calls for an ascertainment of the meaning of the text of the various provisions, not abstractly and once for all, but concretely for particular questions by study of the experience of judicial application of them to other questions. There has been no such decisive experience since 1890 as to tie down judicial interpretation and application as to things which we cannot yet foresee.

Again, there is much in the historical content of the Bill of Rights that speaks from the relationally organized society of the Middle Ages. There is much that speaks not from the rationalist abstract individualism of the seventeenth and eighteenth centuries, nor from the metaphysical individualism of the nineteenth century, but from a society that thought of men as in relations. The regard for the concrete individual and stress on the social interest in the individual human life, which characterize recent thinking, suggest that it may have been fortunate that the historical materials that were given shape in the Bill of Rights came from the Middle Ages, or from English law books that worked over the ideas of the Middle Ages, rather than exclusively from the speculations of the rationalist legal and political philosophy of the eighteenth century.

It is not a bad thing that legislation will be held down and constrained to go cautiously in the era of growth and change that is upon us. It used to be common for writers on the social sciences to lament the slowness with which new ideas make their way in politics, in law, and in the social sciences. But this is not necessarily bad in itself. Even a certain hostility to the best of new ideas has value as a guaranty of social stability. It is well that mankind at large should go slow in receiving them, and that we should be constrained to go slow in putting them into effect in social control through law.

In the best of popular governments there is always danger of occasional legislation in the spirit of the mob mind. There is always danger of institutional waste. There is danger of offhand readjustments of political and social and economic institutions on the basis of uncriticized ideas and without the requisite preparation in inquiry and thought. A judicially applied bill of rights may always be a real force for maintaining civilization, although it does no more than compel consideration and even reconsideration of all striking departures from the past.

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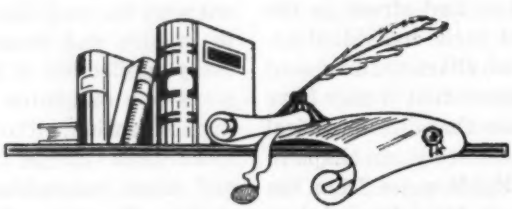
No one need flatter himself that a bill of rights or any other instrument may permanently stand in the way of a whole people bent on injustice. But it may give pause to a people whose general and ultimate aim is justice, when for some reason it is for the moment bent on a sporadic injustice. And that very giving of pause may suffice to bring to light the real, as distinguished from the apparent truth and right, so that in the final event justice shall prevail.

Hence I should not join with those, more numerous two decades ago than to-day, who decry what they call our eighteenth—century bills of rights and look on them as hindrances to progress that should be swept away. At worst, they can but delay legislation that expresses the needs of time and place, as in the experience of New York with the workmen's compensation law. At best they can require rational weighing of all the interests involved in legislation for new situations. They can constrain lawmakers to show a clear case for new departures that carry with them possibilities of injustice or of social or institutional waste. By this very fact of constraining lawmakers to show a clear case, bills of rights may constrain them to think critically as to what they do. Thus they may bring about an orderly and assured, even if at times a slow and halting, progress in the adjustment of our laws and institutions to the needs of urban, industrial America.

Of this much one may feel reasonably assured. Perhaps it is idle to look further into the future. Yet without asserting that the Bill of Rights and the copies and imitations that obtain so universally in this country shall for all time compel sovereign American commonwealths or a sovereign people to rule under God and the law, I have a strong faith that it is a permanent feature of American institutions. I have an abiding confidence that it will work to make reason and the will of God prevail within our domain, so long as we live under a régime of constitutional democracy.

—Extracts from address delivered at Williamsburg, Va., on June 12, 1926.



Uniting Bar Associations

By JOSEPH McCARTHY,* *of the Spokane, Washington, Bar*

AT THE recent annual meeting of the American Bar Association one of the principal subjects of discussion was some means of more coherently organizing the lawyers of the country.

It was recognized that our various bar associations—local, state and national—have proud records of achievements. They have accomplished very much indeed in sustaining the dignity and power of the bench and bar and in directing public opinion concerning pending and proposed legislation. It was recognized, however, that all this has been accomplished by associations composed of but a substantial minority of the members of the bar. The splendid influence wielded by the American Bar Association is done in spite of the fact that only perhaps eighteen per cent of the lawyers of the country are members of that association. State associations compose perhaps only about fifteen to thirty per cent of the members of the bar within their respective states—the State Bar Association of New York, for instance, having a membership of only about eighteen per cent.

Despite these minorities it is recognized that there is practically no co-ordination or co-operation between respective local and state associations and no direct organic connection between the state associations and the American Bar Association. It seemed and seems to be the consensus of opinion of a large majority of the bar of the country that the power and influence of the bar generally could be enhanced manifold both for their own benefit as well as for public welfare could greater co-ordination and co-operation be procured among the various associations. Vast areas and mounting populations have rendered the efforts of the individual comparatively weak except as they are exerted through co-operation with his fellows and class. It is thought that the effectiveness of the combined learning and ability of the members of the bar of the country might be most powerfully enhanced could a proper means be found to supply among them what is popularly known as a superior "class consciousness."

It seems to be recognized that progress in organization must first come through respective state associations. Hon. R. E. L. Saner, then President of the American

* Chairman of Committee which drafted present Constitution of the Washington State Bar Association.

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Bar Association, in a comprehensive article on the subject in the April, 1924, number of the Journal of the American Bar Association said, "Any plan for a federalized and fairly complete organization of the bar rests on the pillars of increased strength in the state associations," and later writing on the subject said, "if the matter of federation could be brought about in the right way it would, no doubt, be the biggest thing that has ever happened to the legal profession.

Two models for improved state organization are suggested. One of these is known as the "all-inclusive," "corporate," or "compulsory" plan. The other, the "affiliation," "voluntary," or "Washington" plan.

The all-inclusive plan obtains in North Dakota, Idaho, New Mexico, and Alabama. Reference to the statutes of these states will of course disclose the plan in its entirety. Substantially, and through the Supreme Court, the complete power of admission, discipline and expulsion is turned over to the bar itself. The payment of an annual license fee entitles the licensee to practise law and creates a fund ample for all usual association purposes as well as to enable the association to perform its enlarged functions and duties. The plan had its origin in North Dakota and strange as might appear its adoption was opposed practically if not unanimously by the bar of the state—the plan being a product of what was known as the "non-partisan league." After some half dozen years of experience, however, the bar of North Dakota seem practically or unanimously in favor of its retention.

The affiliation or voluntary plan originated in the state of Washington. An outline of a constitution disclosing the plan will be found in the July 1926 number of the American Bar Association Journal. Substantially, it provides that the membership of the state association shall consist of organized county or local associations; that funds for state association purposes shall be raised on a budget basis by contributions from various county associations in proportion to their respective population, number of practising or licensed attorneys, or otherwise; that after its adoption membership in the state association in counties where local affiliated associations exist can be obtained only through membership in the local or county association; that in each subdivision of the state (say five to nine) there shall be a district vice-president or other similar officer whose duty it shall be to do all possible to cause local or county associations to be organized in counties within his district and to cause them to affiliate with the state association and to contribute

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their proper proportion to the budget.

The article in the Journal also details the means by which the plan was adopted in Washington. The same end could be accomplished by embodying the substance of the plan in an amendment to the Constitution of most any state association. By such amendment each county might thereby take advantage of the plan, or otherwise as it saw fit. Substantially, all that would be required of the county association so taking advantage of the plan would be to contribute the county's proper proportion to the budget. Whether the plan were to be adopted either by way of a new constitution or by way of amendment, the dues required from the individual members should be so adjusted or raised as to supply a substantial inducement for members of county associations to affiliate as a group. While speaking of dues it may not be amiss, in passing, to observe that it is thought by many that, compared with other like organizations, bar association dues generally are too low.

The experience of Washington with the affiliation plan has proved most encouraging. It was adopted in 1920 and has brought the membership of the state association from approximately 10 per cent to 86 per cent. The state association has never been so amply financed. Not only has the state association benefited but local associations have benefited even more. In the larger cities well attended regular weekly noonday luncheon meetings are held. Visitors from other local or county associations and members of the bar and judges from other states are frequently guests. At these meetings recent decisions of importance are reported and prospective and pending legislation analyzed and discussed.

Both plans appear to have much merit. It may be that one is more suited to conditions existing in certain states than the other. An excellent analysis of the merits of the all-inclusive plan is contained in the report submitted to the National Conference of Bar Associations at Detroit in September, 1925, by Hon. Clarence M. Goodwin of Chicago, its sub-committee chairman, and a comprehensive and equally excellent statement indicating reasons why it is thought the all-inclusive plan is not applicable to conditions as they exist in the State of New York is contained in the communication of Hon. William D. Guthrie, President of the Bar of the City of New York, addressed to its members under date of April 3rd, 1926. The voluntary plan can be the more readily adopted—at least it could be adopted without legislative action—and if the all-inclusive plan were then thought applicable to the conditions such action could be one for later consideration.

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An American Lawyer in the London Courts

By HON. EDGAR S. RICHARDSON

THERE are four of the Inns of Court: Gray's Inn, Lincoln's Inn, the Middle Temple and the Inner Temple. Every member of the bar must be trained in one of these four Inns. They constitute England's legal university. Each Inn is more than 500 years old. Before Columbus discovered America these Inns were training the English Bar. William Penn was a member of Lincoln's Inn. Three hundred and thirty Americans were members of these Inns. At the time of the Revolution over 100 American law students were members. Many of the able minds who created our own Constitution and our state constitutions were trained in these old Inns; five signers of the Declaration of Independence being members of the Middle Temple.

The story of these Inns is especially interesting to members of the bar.

Briefly stated, an Inn of Court in London is a collection of quaint old buildings and halls which have existed for over 500 years, where barristers have their law offices and where students at law must study under the barristers of each particular Inn.

The Inner Temple is the largest of the Inns. Its members are recruited principally from the universities of Oxford and Cambridge. The church in the Temple grounds was built in 1185 by the Knights Templar, who occupied the grounds until about 1320, when their property was confiscated and finally, about 1340, rented to the lawyers, who have been there ever since. . . .

It is only when we understand this background of history and customs that we can learn to know the English lawyer. One must learn about his environment and the traditions which surround him. Most Americans are familiar with the wig and gown and most people know that there are two distinct classes of English lawyers: barristers and solicitors.

The barristers are trained in the Inns of Court. They alone have the right to try cases in court, they alone wear wig and gown, and they alone have the right to become judges. Their offices or chambers are in the Inns, their clients are the solicitors, and they have no contact with the parties them-

selves in a lawsuit. Every case to them is an abstract proposition. They do not advertise, cannot form partnerships, but often have many "juniors" or "devils" working for them. They are all concentrated in London. About 1,000 to 1,200 handle all the legal business of the kingdom. Walking through the Inns, one frequently sees names on the doorways of the old buildings, such as "Mr. John Jones," "Mr. Barratt;" never is the word "barrister" or "lawyer" added.

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The solicitors, on the other hand, although they cannot practise in the courts, can advise clients, form corporations, represent banks and corporations, draw contracts, wills, etc. Their clients are the public. When they find a difficult question of law or must go into court they retain a barrister. A solicitor cannot become a judge or attorney general, but he can go into business. He may advertise, promote corporations, seek business, etc. Solicitors are scattered all over England, there being many large and powerful firms in the big cities. They do not wear wigs and gowns. Their education and examination are controlled entirely by the Law Society of England. They look upon the division of the profession as entirely unnecessary, and the drift is slowly toward abolishing the distinction. There are about 17,000 solicitors on the official rolls throughout England and Wales.

In France this same division of the profession exists. There are "avocats," like barristers, and "avones" and "avocats-counseils," like solicitors. The "avocats" number about 3,000 in Paris, with about 400 to 500 in active practice. All "avocats" must have their offices in their own homes like physicians, and like the old Roman lawyers. They cannot have outside offices. They cannot display their names on any sign on their home, however. The relation between client and avocat is supposed to be so intimate that the client is necessarily presumed to know where his avocat lives. Their ethical standards are very high. They also wear gowns.

In Germany, however, there are no two classes of lawyers. The "rechtsanwalt" (attorney-at-law) can appear in court and also advise clients. He is both barrister and solicitor. But the practice of the law in Germany is considered more of a public office than a profession. It is an appointive position; its duties are fixed by law. The rechtsanwalt must live in the dis-

trict for which he is appointed, and his position in society is between officials and scholars.

When an American lawyer attends an English court he feels no sense of strangeness while watching the proceedings. Here he is on familiar ground. There are some differences, it is true, some of them superficial and some fundamental. But although the barrister and judge wear strange wigs and gowns, they speak in terms that we recognize. The law which they administer is very much our own law. The manner of trial is much the same. In spite of many ancient customs, we are surprised to find the most up-to-date courts in the world. The administration of the law is simple, prompt and colloquial. Here is a complete triumph of common sense. The Englishman is at his best in his court. The judge, barrister and the witness seem perfectly at home in the court room. There is a hearty good humor, alacrity and crispness in the proceedings which delight an observer.

—From address delivered before the Historical Society of Berks County and reprinted from the Reading (Pa.) Eagle.

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Let us consider the reason of the case. For nothing is law that is not reason.
—Sir John Powell

Abatement — *effect of change of parties defendant.* The right of a defendant to abatement of the suit because of a prior suit pending is held not to be affected by the fact that parties to the former suit are omitted from the later one or that new parties defendant are added to it, in the Michigan case of Chapple v. National Hardwood Co. 207 N. W. 888, which is annotated in 44 A.L.R. 804, on abatement by pendency of another action as affected by addition or omission of parties defendant in second suit.

Alleys — *injury by attempted use of unlighted and unimproved alley.* One who, being perfectly familiar with the conditions, attempted to use an unimproved and unlighted alley as a short cut on a dark and rainy night, when his objective might have been reached by traveling 300 feet further on lighted and paved streets, is held not entitled, in the Virginia case of Bohlken v. Portsmouth, 131 S. E. 790, to recover from the municipality for injuries caused by falling over a water meter box left projecting above the surface of the alley.

Annotation on the liability of a municipality for an injury to a traveler in an alley is appended to this case in 44 A.L.R. 810.

Arrest — *necessity of warrant.* Where the offense is not a felony, it is held in Miles v. State, — Okla. Crim. Rep. —, 236 Pac. 57, that the officer cannot arrest without a warrant, unless the offense was committed or attempted in his presence.

Annotation on the right to arrest without a warrant for unlawful possession or transportation of intoxicating liquor, accompanies this case in 44 A.L.R. 129.

Automobiles — *contributory negligence — infant playing in street.* Where a boy between fourteen and fifteen years of age, while playing ball in the street, ran backwards to catch the ball and was struck by a motor truck, it was held in the New Jersey case of Clerici v. Gennari, 132 Atl. 667, that there was no element of danger of which a boy of his years was not capable of fully appreciating, and that, in acting as he did, he took the risk of his own injury, and was by his contributory negligence barred from the recovery of damages for his injuries in the action instituted by him for that purpose.

This case is followed in 44 A.L.R. 1304 by annotation on liability for injury by an automobile to a child playing ball in the street.

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Automobiles — *liability for injury caused by stranger permitted to drive by servant.* The owner of an automobile who permits his son to take it for a pleasure trip is held to be liable in Thixton v. Palmer, 210 Ky. 838, 276 S. W. 971, for injuries caused by the negligent driving of a third person whom the son permits to operate the car while remaining in it himself, if the owner would have been liable had the son himself been driving at the time of the accident.

The annotation which accompanies this case in 44 A.L.R. 1379 treats of the liability of the owner for the negligence of one permitted by the former's servant, or a member of his family, to drive the automobile.

Automobiles — *Necessity of ability to stop within range of vision.* That no hard and fast rule makes it negligence to drive an automobile at such speed that it cannot be stopped within the range of the driver's vision, is held in the Oregon case of Murphy v. Hawthorne, 244 Pac. 79, which is annotated in 44 A.L.R. 1397.

Bankruptcy — *trustee's right to trade name.* Under the provision of subdivision 5 of § 70a of the Bankruptcy Act of 1898, a trade name lawfully identified with the business of a bankrupt at the time of his adjudication is held to pass to the trustee as an asset of the bankrupt's estate in the Florida case of Children's Bootery v. Sutker, 107 So. 345, annotated in 44 A.L.R. 698 on trademark or tradename as asset in case of bankruptcy, insolvency, or assignment for the benefit of creditors.

Bills and notes — *limitation of actions — necessity of demand.* Note payable on demand after date, and providing for interest from date, payable semiannually, and for annual interest from maturity till paid, is held to require demand to mature it and set the statute running in the Mississippi case of Shapleigh Hardware Co. v. Spiro, 106 So. 209, annotated in 44 A.L.R. 393.

Contracts — *requirement of bids for architect's services.* The employment of an architect and others of special technical learning is held in the Texas case of Tackett v. Middleton, 280 S. W. 563 not to be controlled by statutes requiring bids in writing for services or work to be done for a municipality, and payment for such services may be made out of the current revenues of the city.

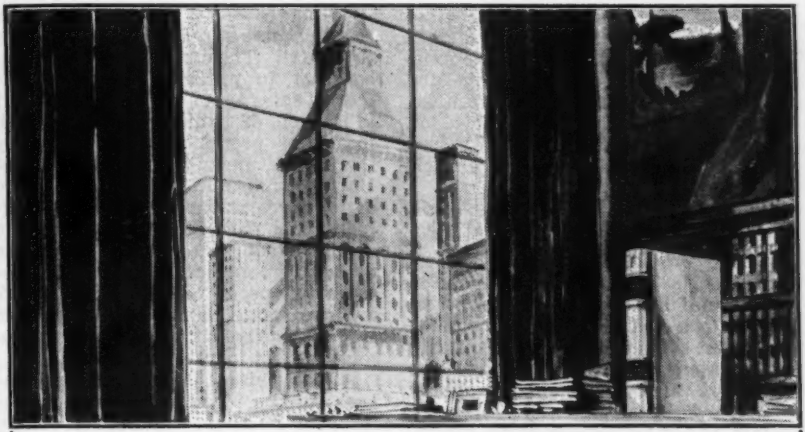
Contract for services as within requirement of submission of bids as condition of public contract, is the subject of the annotation appended to this case in 44 A.L.R. 1143.

Contracts — *to construct buildings — effect of death.* That a contract to erect a building is not, ordinarily, of such a character that it will not survive the death of the promisor, is held in the California case of Re Burke, 244 Pac. 340, annotated in 44 A.L.R. 1341 on death of contractor as terminating building contract.

Corporations — *liability of one signing articles.* In the absence of statute, the signing of articles of incorporation gives no authority to cosigners and is held in Wheeler & M. Mercantile Co. v. Lamerton, 8 F. (2d) 957, not to constitute them agents, prior to the conclusion of the incorporation, to purchase for the proposed corporation or the signer any property requisite or convenient for the expected corporation, or make him liable for the purchase price of such property.

Signing articles of incorporation as rendering one liable on contracts entered into prior to conclusion of incorporation is the subject of the annotation appended to this case in 44 A.L.R. 769.

Criminal law — *basis of criminal responsibility.* Criminal responsibility, it is held in the Massachusetts case of Com. v. Stewart, 151 N. E. 74, does not depend on the mental age of accused, nor upon the question whether his mind is above or below that of the ideal, or average, or of the normal



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mind, but upon the question whether he knows the difference between right and wrong, can understand the relation which he bears to others and which others bear to him, and has knowledge of the nature of his act, so as to be able to perceive its true character and consequences to himself and others.

This case is followed in 44 A.L.R. 579 by annotation on subnormal mentality as a defense to crime.

Criminal law — *homicide — accessory before fact — involuntary manslaughter.* That one may be guilty as accessory before the fact to the crime of involuntary manslaughter committed by negligently using an unsafe boiler in an excursion steamer, resulting in explosion and the killing of passengers, is held in the Rhode Island case of State v. McVay, 132 Atl. 436, annotated in 44 A.L.R. 572 on accessory before the fact in manslaughter.

Criminal law — *power to set aside sentence under execution.* When a convict has entered upon the execution of a valid sentence, the court, it is held in the Arkansas case of Emerson v. Boyles, 280 S. W. 1005, cannot, even during the term at which sentence was rendered, set it aside and render a new one.

This case is annotated in 44 A.L.R. 1193 on power of court to set aside sentence after commitment.

Damages — *breach of purchase contract — resale price.* In case a resale to establish market price after a breach of contract to purchase goods results in obtaining a price above market, the measure of damages is held to be the difference between the contract price and the amount realized from such resale in Kahn v. Carl Schoen Silk Corp. 147 Md. 516, 128 Atl. 359, annotated in 44 A.L.R. 285, on measure of seller's damages under an executory contract as affected by his resale of the property.

Damages — *for breach of contract to purchase automobile — Uniform Sales Act.* The damages for breach of contract to purchase an automobile from a sales agent are held in Stewart v. Hansen, 62 Utah, 281, 218 Pac. 959, to be the profits the agent loses by the breach, under the provision of the Uniform Sales Act that the measure of damages is the estimated loss directly and naturally resulting in the ordinary course of events from the breach of contract, which, in the absence of special circumstances showing proximate damages in a greater amount, is the difference between the contract and market price.

Annotation on the measure of damages for the buyer's breach of a contract to purchase an article of the dealer is appended to this case in 44 A.L.R. 340.

Damages — *measure — breach of contract to purchase.* That the seller's measure of damages resulting from the purchaser's breach is, as to lumber cut and tendered under the terms of the contract, the difference between the contract price and the market price at the time and place of delivery, is held in White & H. Lumber Co. v. Lynch, 159 Ga. 283, 125 S. E. 472, annotated in 44 A.L.R. 211 on measure of damages for buyer's repudiation of or failure to accept goods under an executory contract.

Damages — *refusal to accept goods.* The correct measure of damages for refusal of a purchaser to accept and pay for goods under a contract of sale is held in O. A. Olin Co. v. Lambach, 35 Idaho, 767, 209 Pac. 277, to be the difference between the market value and the contract price, except where the article is specially ordered and prepared, is not readily salable on the market, and where a market price cannot readily be fixed.

The measure of damages for the buyer's breach of a contract to purchase shares of stock is the subject of the annotation which follows this case in 44 A.L.R. 354.

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Eminent domain — *furnishing power to power companies.* The furnishing of electric power by a duly incorporated corporation, without reservation of private benefit, to a public service corporation, which in turn furnishes the same electric power to the public, is held to be a public use for the furtherance of which the corporation may be invested with the power of eminent domain, in the Virginia case of Nichols v. Central Virginia Power Co. 130 S. E. 764, annotated in 44 A.L.R. 727.

Fraud — *representations causing mortgagor to fail to redeem.* An action at law founded on fraud and deceit is held in Kritzer v. Moffat, 136 Wash. 410, 240 Pac. 355, to lie against a mortgagee who, after foreclosure and before the time for redemption has expired, in order to lull the mortgagor into a sense of security so that he will forego his legal right of redemption and the mortgagee can obtain a deed to the property, assures the mortgagor that redemption is not necessary, but that he will carry the debt upon mere payment of taxes and interest until a future time.

This case is followed in 44 A.L.R. 681 by annotation on remedy for fraud preventing redemption from judicial sale.

Fraudulent conveyances — *gift of child's services.* That a father can make a valid gift of his minor son's services to himself so as to be beyond the reach of the father's creditors, is held in the Arkansas case of Frauenthal v. Bank of El Paso, 280 S. W. 1001, annotated in 44 A.L.R. 871.

Good will — *as asset of partnership.* Good will when it exists as incidental to the business of a partnership is held to be presumptively an asset, to be accounted for like any other by those who liquidate the business, in Re Brown, 242 N. Y. 1, 150 N. E. 581, annotated in 44 A.L.R. 510 on accountability for good will on dissolution of partnership.

Indemnity — *liability of owner of automobile to garage keeper.* In the absence of an agreement, the owner of an automobile is held in the Virginia case of Chelf v. Smith, 131 S. E. 846, annotated in 44 A.L.R. 1175, not to be liable to the keeper of the garage at which it is stored for the amount which the keeper is compelled to pay a stranger for injuries inflicted by his servant in moving the car between the garage and the owner's residence, in accordance with a storage contract.

Infants — *liability for abandonment of child.* Where the statute permitting adoption of infant children places the adopting parent under the same responsibilities as if the person so adopted were his own child, he is held in Com. v. Kirk, 212 Ky. 646, 279 S. W. 1091, annotated in 44 A.L.R. 816, to be subject to the provisions of the statute providing punishment for the parent of a child who shall leave, desert, or abandon it, leaving it in destitute circumstances.

Injunction — *action or suit — effect of maxim "de minimis."* The maxim "de minimis non curat lex" is held not to prevent maintenance of an injunction against interference with a water ditch because another might be constructed at small cost in Kane v. Porter, 77 Colo. 257, 235 Pac. 561, annotated in 44 A.L.R. 165 on the maxim de minimis non curat lex.

Libel and slander — *charging witness with perjury.* A party to a law suit is held not to be liable for slander in charging a witness with perjury during the course of the trial, in Smith v. Mustain, 210 Ky. 445, 276 S. W. 154, annotated in 44 A.L.R. 386 on privilege of statements made during trial by one not on the witness stand or acting as attorney for another.

Marshaling assets — *homestead — right to compel exhaustion of other assets.* That a debtor who has made a declaration of homestead may

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require his creditor to exhaust all other property against which he has a lien, or even resort to assets upon which no specific lien exists, before enforcing his rights against the homestead, is held in the Arizona case of Mounce v. Wightman, 243 Pac. 415, annotated in 44 A.L.R. 754 on rule as to marshaling assets as affected by homestead law.

Master and servant — *injury to contractor's servant — liability.* Where work is in charge of a contractor, and the property owner is concerned only in the general results of the work and has no control of the details and manner in which the work shall be accomplished, the contractor alone is held to be responsible to a person in his employ who is injured during the progress of the work in Warner v. Synnes, 114 Or. 451, 230 Pac. 362, annotated in 44 A.L.R. 904 on liability of the contractee for injuries sustained by the contractor's servants in the course of the stipulated work.

Master and servant — *payment of wages — waiver of breaches of contract.* That payment by an employer of the wages of his employee to the date of the latter's discharge will not constitute a waiver by him of breaches of the contract, or deprive him of his right to terminate the employment on account of such breaches is held in the West Virginia case of Gordon v. Dickinson, 130 S. E. 650, which is accompanied in 44 A.L.R. 526, by annotation on payment as condonation preventing discharge of servant for breach of duty.

Master and servant — *recovery for injury to contractor.* That a contractor cannot recover damages from his employer for injuries he may sustain in the performance of his contract, is held in Arizona Binghampton Copper Co. v. Dickson, 22 Ariz. 163, 195 Pac. 538, annotated in 44 A.L.R. 881, on liability of contractee and contractor inter se with respect to injuries sustained while the stipulated work is in course of performance.

Mortgage — *assumption by assignee — liability.* Where the purchaser of a portion of a tract of land assumes and agrees to pay an encumbrance upon the entire tract, as a part of the consideration of his purchase, and his vendor afterwards sells the remainder of the tract to a third person, who pays the full purchase price of said remaining portion to the seller, the agreement of the first purchaser inures to the benefit of the second purchaser; and upon breach of such agreement the first purchaser is held to become liable in equity to the second purchaser for such damages as are sustained by the latter in consequence of such breach in the Georgia case of Reid v. Whisenant, 131 S. E. 904, which is followed in 44 A.L.R. 599, by annotation on liability of purchaser of part of tract who assumes and agrees to pay the mortgage on the entire tract to the purchaser of the other part.

Principal and agent — *effect of insanity on power of attorney.* That an adjudication of insanity of the maker of a note will not revoke a power of attorney to confess judgment contained in the instrument, is held in Johnson v. National Bank, 320 Ill. 389, 151 N. E. 231, annotated in 44 A.L.R. 1306 on death or incompetency of principal as affecting an existing power of attorney to confess judgment.

Reformation of instruments — *effective against general creditors.* The equity of reformation is superior to, and operative against, the demands of general creditors, and is held not to be affected by the subsequent rendition of judgment in favor of a general creditor in the Nebraska case of Beckius v. Hahn, 207 N. W. 515, annotated in 44 A.L.R. 73, on right to reformation of contract or instrument as affected by intervening rights of third persons.

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Sale — *purchase for value — satisfaction of pre-existing debt.* One is held to be a purchaser for value who takes an assignment of a conditional sales contract in part payment of a pre-existing debt, in Long v. McAvoy, 133 Wash. 472, 233 Pac. 930, annotated in 44 A.L.R. 483 on taking personal property in payment of antecedent debt as making one purchaser for value.

Taxes — *failure of collector to present draft for payment — effect.* The rule that want of diligence in presenting for payment a draft sent in satisfaction of a claim extinguishes the liability of the drawer is held in the South Dakota case of Eggleston v. Plowman, 207 N. W. 981 not to be applicable in favor of a taxpayer sending a bank draft to the collector in payment of taxes, and therefore the negligence of the collector in failing to present the draft for payment before the insolvency of the drawer, so that the draft becomes uncollectable, does not release the taxpayer from his liability for the taxes.

Annotation on payment of tax by check or draft follows this case in 44 A.L.R. 1231.

Telegraphs — *failure to deliver message affecting illegal contract in futures.* That no recovery can be had for failure to deliver a telegram directing the sale of cotton on an exchange, with no intention of the parties that delivery shall be had, which sale is, therefore, illegal under the statutes of the state is held in Wiggins v. Postal Teleg. & Cable Co. 130 S. C. 292, 125 S. E. 568, annotated in 44 A.L.R. 781 on liability of telegraph company respecting telegram relating to gambling transaction.

Trusts — *care required of trustee.* One accepting the duties and responsibilities of a trustee, is held to be charged with the use of ordinary care and prudence in administering the trust, in the Texas case of Ewing v. William L. Foley, 280 S. W. 499, annotated in 44 A.L.R. 627.

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Recent British Cases

Attorneys — *negligent performance of work — liability to third person.* That the omission of a solicitor employed to prepare and supervise the execution of a will, to attach his signature thereto as an attesting witness, in consequence of which it could not be probated, was not such conduct as warranted the court in the exercise of its disciplinary jurisdiction in ordering him to make good the loss sustained by the sole beneficiary of the will, was held in Re Fitzpatrick (1923) 54 Ont. L. Rep. 3, 13 B. R. C. 146. The report of this case in 13 B. R. C. 152, is accompanied by annotation on the liability of attorney to third person for negligence or mistake in performing work for client.

Automobile — *sale — recovery of purchase money.*—In an interesting case in the English Court of Appeal, Rowland v. Divall [1923] 2 K. B. 500, 13 B. R. C. 98, it was decided that one who bought a motor car from the defendant and used it for several months was entitled to recover the purchase money paid, where the defendant had no title to the car and the purchaser was compelled to surrender it to the true owner, since there was a total failure of consideration, notwithstanding the use of the car by the purchaser, such use being no part of the consideration which he had contracted for, which was the lawful possession of the car. The question of the right of purchaser to recover purchase money from seller where title fails is covered in annotation appended to the report of this case in 13 B. R. C. 106.

Income tax — *undivided profits.* In another case arising in the English Court of Appeal, Inland Revenue Comrs. v. Burrell [1924] 2 K. B. 52, 13 B. R. C. 400, it has been decided that individual profits distributed among shareholders upon the winding up of a corporation were not income received by the shareholders for the purposes of the supertax on incomes, since in the winding up they had ceased to be profits and were assets only. The annotation appended to this case in 13 B. R. C. 422 covers the question of undivided profits distributed on winding up of company, as income within Income Tax Law.

Sales — *breach of warranty — effect of negligence of purchaser.* The Supreme Court of New South Wales has decided in Sheahan v. Stockman, 22 N. S. W. St. Rep. 415, 13 B. R. C. 452, that the seller of wheat chaff against whom an action has been brought by his vendee to recover the amount of a judgment recovered against such vendee by a subvendee, whose horses were made ill by a deleterious substance therein, could not in such action litigate the question of the negligence of the subvendee in feeding the chaff after noticing a foreign substance in it, where he had been given an opportunity to defend the action brought by the subvendee and had been informed of every step taken in its defense. The question of the effect of the negligence of a purchaser or his vendee upon liability for loss or damage resulting from breach of warranty is covered in the annotation accompanying the report of this case in 13 B. R. C. 464.

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A.L.R. Annotations in Volume 44 Include These Subjects:

Action — Liability of municipality for injury to lateral support in grading street. 44 A.L.R. 1494.

Alteration of instruments — Alteration of note before delivery to payee as affecting parties who do not personally consent. 44 A.L.R. 1244.

Alteration of instruments —Erasing indorsement of payment as an alteration of instrument. 44 A.L.R. 1540.

Amusements — Duty and liability of owner or keeper of place of amusement respecting injuries to patrons. 44 A.L.R. 203.

Automobile — Duty of pedestrian before crossing street to look for vehicles approaching on intersecting street. 44 A.L.R. 1299.

Bail — Right to recover cash bail or securities taken without authority. 44 A.L.R. 1499.

Bailment — Liability of one contracting to make repairs for damages for improper performance of the work. 44 A.L.R. 824.

Banks — Balance due other banks on clearing house settlement as preferred claim against insolvent bank. 44 A.L.R. 1535.

Banks — Liability of bank taking commercial paper for collection for default of correspondent. 44 A.L.R. 1430.

Bills and notes — Effect of assignment indorsed on back of commercial paper. 44 A.L.R. 1353.

Bills and notes — Negotiability of title-retaining note. 44 A.L.R. 1397.

Bonds — Rental of equipment as within contractor's bond. 44 A.L.R. 381.

Carriers — Construction of provision of Interstate Commerce Act dispensing with notice or filing of claim. 44 A.L.R. 1360.

Carriers — Demurrage as affected by insurrection or act of public authorities. 44 A.L.R. 829.

Carriers — Discrimination by carrier between shippers as to use of right of way or wharf. 44 A.L.R. 1526.

Carriers — Liability of street railway company to passenger struck by vehicle not subject to its control. 44 A.L.R. 162.

Commerce — Excise tax on foreign corporation engaged exclusively in interstate commerce measured by net income from business within the taxing state. 44 A.L.R. 1228.

Corporations — Reduction of capital stock and distribution of capital assets upon reduction. 44 A.L.R. 11.

Corporations — Power to create preferred stock as against existing preferred stock. 44 A.L.R. 72.

Corporations — Right of court to interfere with amount of salaries voted to officers of private corporation by directors. 44 A.L.R. 570.

Covenants — Encumbrance undischarged and unenforced as affecting rights and damages under a covenant against encumbrances. 44 A.L.R. 410.

Criminal law — Acquittal or conviction of one offense in connection with operation of automobile as bar to prosecution for another. 44 A.L.R. 564.

Damages — Deductions on account of labor or expenditures in fixing damages for conversion. 44 A.L.R. 1321.

Damages — Measure of damages for breach of contract to lend money. 44 A.L.R. 1486.

Damages — Right to recover for mental pain and anguish alone, apart from other damages. 44 A.L.R. 428.

Divorce — Religious differences as affecting right to divorce or separation. 44 A.L.R. 726.

Eminent domain — Condemnation by de facto corporation. 44 A.L.R. 542.

Eminent domain — Power to establish building line along street. 44 A.L.R. 1377.

Evidence — Liability for damages by explosives transported along highway. 44 A.L.R. 124.

Evidence — Evidence of improper conduct by deceased toward defendant's wife as admissible in support of plea of self-defense. 44 A.L.R. 860.

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Evidence — Liability of druggist for injury in consequence of mistake. 44 A.L.R. 1482.

Evidence — Presumption of death from absence as affected by fact that person was fugitive from justice. 44 A.L.R. 1488.

Executors and administrators — Power to impound assets of nonresident decedent in state. 44 A.L.R. 801.

Expectancies — Validity and effect of transfer of expectancy by prospective heir. 44 A.L.R. 1465.

Garnishment — Garnishment of insurance by creditor of member of class to whom payment may be made at insurer's option. 44 A.L.R. 1161.

Garnishment — Rights of creditors of life insured as to options or other benefits available to him in his lifetime. 44 A.L.R. 1188.

Gift — Donor's own check as subject of gift. 44 A.L.R. 625.

Husband and wife — Right of one spouse to maintain action against other for personal injury. 44 A.L.R. 794.

Income taxes — "Taxes" deductible in computing Federal income tax. 44 A.L.R. 1437.

Injunction — Injunction against discharge of employee. 44 A.L.R. 1443.

Insurance — Burglary, theft, or robbery within policy of insurance. 44 A.L.R. 471.

Insurance — Liability of property insurer as affected by explosion. 44 A.L.R. 870.

Insurance — Necessity of giving beneficiary notice before cancelation or forfeiture of insurance for nonpayment of premiums or assessments. 44 A.L.R. 1372.

Interest — Right of creditor to interest after bankruptcy, declared insolvency, or appointment of receiver, where assets are more than sufficient to pay the principal of all claims. 44 A.L.R. 1170.

Judgment — Foreign judgment based upon or which fails to give effect to a judgment previously rendered at the forum or in a third jurisdiction. 44 A.L.R. 457.

Judgment — Judgment on substituted service as within provision for relief from judgment taken through mistake, surprise, or excusable neglect. 44 A.L.R. 618.

Landlord and tenant — Changes of physical conditions on property of landlord other than that leased, as affecting rights and liabilities of landlord and tenant. 44 A.L.R. 59.

Libel — Libel and slander: false imputation of matrimonial intentions. 44 A.L.R. 1424.

Master and servant — Right to inventions as between employer and employee. 44 A.L.R. 593.

Mortgage — Rights in abstract of title held by mortgagee. 44 A.L.R. 1332.

Municipal corporation — Liability of municipality for mob or riot. 44 A.L.R. 1137.

Negligence — Liability for injury to child playing on or in proximity to automobile. 44 A.L.R. 434.

Parent and child — Liability of parent who permits child to have firearms for injuries inflicted by latter. 44 A.L.R. 1509.

Physicians and surgeons — Liability for medical or surgical services rendered inmates of public institutions. 44 A.L.R. 1285.

Physicians and surgeons — Liability to patient for results of medical or surgical treatment by one not licensed as required by law. 44 A.L.R. 1418.

Replevin — Replevin for bank account. 44 A.L.R. 1522.

Sale — Right of seller as condition of delivery to insist on or resort to means not provided by contract to assure payment. 44 A.L.R. 443.

Subscription — Consideration for subscription agreements. 44 A.L.R. 1340.

Succession taxes — Applicability of succession tax law to antenuptial contract. 44 A.L.R. 1475.

Succession taxes — Deduction of Federal estate tax before computing state tax. 44 A.L.R. 1461.

Sunday — Sale in violation of Sunday law as affecting recovery for personal injury or other collateral consequences of breach of warranty by seller or manufacturer. 44 A.L.R. 128.

Taxes — Bond or warrant of governmental subdivision as subject of taxation or exemption. 44 A.L.R. 510.

Taxes — Holder of invalid tax title as within occupying claimant's act. 44 A.L.R. 479.

Workmen's compensation — Interest in the business or in corporation or firm owning the business as affecting right to compensation. 44 A.L.R. 1217.

Workmen's compensation — Lead or other occupational poisoning as within Workmen's Compensation Act. 44 A.L.R. 371.

Workmen's compensation — Neurasthenia as compensable. 44 A.L.R. 500.

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THE LIFE OF THOMAS E. WATSON. By WILLIAM W. BREWTON (Published by the Author: Atlanta, Ga.) $3.50

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The work is well written, attractive, and illustrated, and may be considered authoritative upon the career of the "Sage of Hickory Hill."

CONTRIBUTORY AND ULTIMATE NEGLIGENCE.—An able paper on this subject was read by Robert I. Towers, K.C., before the last session of the Canadian Bar Association held September 1–3, 1926. He states that "since the year 1914, unless changed by statute, as the law in Canada stands, in Admiralty and at common law in all the Provinces, with the exception of Quebec, contributory negligence can be taken to have been established only in those cases where the negligence of the plaintiff coincided with the negligence of the defendant in point of time, so as to be a purely effective cause of the accident, and of such a nature that the defendant was unable reasonably to avoid its consequences, and in Admiralty cases where the Maritime Conventions Act applies, it is necessary to prove that a breach of regulations was an occasion of the loss before it can be held to be contributory negligence. . . .

"The confusing, if not conflicting, nature of the decisions between the years 1914 and 1924 brought about the attempt in four of the Provinces to codify the law of contributory negligence and to adopt the principle of the civil law and the Admiralty Rule as to division of loss, and in the year 1924 the Ontario Legislature passed what is known as the 'Contributory Negligence Act.' . . .

"With regard to the Ontario Act in the editorial of the CANADIAN BAR REVIEW of March, 1924, just prior to the passing of the Act, it is said, 'it has long been a reproach to England and the English Provinces of Canada by jurists in countries and places where the civil law obtains, that the former are entirely illogical in penalizing the plaintiff who has been guilty of contributory negligence by ordinarily depriving him of any redress whatever, even where the defendant is equally or even more guilty.' . . ."

After suggesting improvements by legislation the article continues: "Such an Act would do away with ultimate negligence where, by possibility, contributory negligence amounting to negligence in law might have caused or contributed to the injury, i. e., where a pre-existing duty has been disregarded and loss has resulted. It would still protect the party whose negligence could not by possibility have caused or contributed to the loss, and would bring the burden of the loss upon the party that alone was responsible. The finer distinctions and scholastic refinements and discussions of negligence, contributory negligence and ultimate negligence would be eliminated and uncertainties and confusion both in discussion and in decision would be avoided. . . ."

In conclusion "it is submitted, with great deference to the judgments of the noble and learned judges who have dealt with this problem, to the opinions of learned writers and commentators, of the writers of text-books of high authority, and to the legislators, whose efforts so far do not appear to have been crowned with complete success, that some such legislation as is suggested is both possible and is eminently desirable in the interests of all concerned. Increasing activity in population, manufacture, trade and commerce and along the lines of transportation by sea and land, even in the air, will tend to increase the number and variety of cases of contributory and ultimate negligence that will constantly arise for decision."

IS THE HOMESTEAD TRANSFER SUBJECT TO INHERITANCE TAX?—In an able paper in XXVI. Columbia Law Review, 293, Mr. Nathaniel Seefurth concludes, after a discussion of the cases, that "the question resolves itself simply into this definite proposition of logic as well as law. What is not included within a statute imposing a tax is necessarily excluded. The homestead transfer is not included under a statute that taxes transfers by will or inheritance and consequently, as to such a transfer, inheritance tax statutes do not exist."

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Furthermore, Mr. Root declared: "People are drifting away from the control of principles, each one doing the best he can to do what is about right in the cases that come up, because THE HETEROGENEOUS MASS OF LAWS AND JUDICIAL DECISIONS HAS BECOME SO GREAT THAT IT IS QUITE IMPOSSIBLE TO MAKE THEM FIT INTO THE ADMINISTRATION OF JUSTICE."

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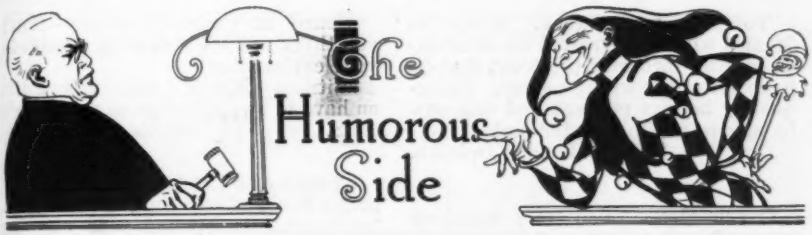

A little folly is desirable in him that will not be guilty of Stupidity.—*Montaigne*

Caseys Alter Circumstances. Pat—What wud yez do if Casey called yez a liar?

Mike—Which Casey—the big wan or the little wan?

"Baboo English." The "baboo English" of India is usually commercial; but a baboo lawyer offered a fine example in his defense of a client.

"My learned friend with mere wind from a teapot thinks to browbeat me from my legs," he asserted. He had probably a "tempest in a teapot" in mind. "I only seek," he continued earnestly, "to place my bone of contention clearly in your Honor's eye."

Small Loss. One specimen of the wit of George Mason, author of the Virginia Bill of Rights, has been preserved. When an opponent charged that George Mason was losing his mind, he retorted that if his adversary's mind should fail nobody would discover it.

Premeditation. Jury clears youth whose auto killed Miss Nettie Jones after 45 minutes' deliberation.

—Newspaper Headline.

Switched Around. "So Bill was arrested last night for being drunk and driving without lights."

"Yes, Bill was lit up and the car wasn't." —Boston Transcript.

Difficult. A judge, after passing sentences, always gave advice to prisoners. Having before him a man found guilty of stealing, he started thus:

"If you want to succeed in this world you must keep straight. Now, do you understand?"

"Well, not quite," said the prisoner; "but if your lordship will tell me how a man is to keep straight when he is trying to make both ends meet, I might."

—London Tit-Bits.

John's Nightmare. "What was that noise I heard in your husband's room last night?"

"Poor John had a dream that he was in his car in town and he was moving his bed around from place to place so that he wouldn't be breaking the law by parking too long in one place."

The Needle, Watson. Thieves are believed to be responsible for the theft.—*Cleveland paper.*

—Literary Digest.

A Question of Motive Power. Lawyer: "Yes, I'm off to Florida for a couple of weeks. Health precaution. Think it best to recharge my storage batteries before they become completely exhausted."

Blunt friend: "That so? I thought you were running on gas."

—Boston Transcript.

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To Correct a Mistake. A man in Mexico who was arrested for attempted murder informed the court that he had shot at the wrong person. Subsequently he was released and will now be able to put the matter right.

—London Opinion.

Overhauled. "You were speeding some when I saw you this morning. Did you give that traffic officer the slip?"

"No, he gave me the slip."

—Boston Transcript.

Santa Claus. "Does yo' husban' give yo' much money, Dovey?" asked one colored lady of another.

"Dat's de mos' liberalist man!" ejaculated her friend enthusiastically. "On'y las' week Ah collected his two thousan' dollah life insu'ance!"

—The Building Owner and Manager.

And Wives Get Alimony. "Better settle with Jones out of court. Hardly anyone makes money by starting a suit."

"Oh, I don't know; all the tailors do." —Boston Transcript.

Desertion—Personal—B. V. Come home at once.—D.—*Chicago paper.*

And we always hoped the B. V. D.'s wouldn't separate, whatever else happened.—*The New Yorker.*

Not Negligent. A motorist, meeting a negro trudging along the dusty road, generously offered him a lift.

"No, thank you, sah," said the old man. "Ah reckon mah old laigs will take me 'long fast enough."

"Aren't afraid are you uncle? Have you ever been in an automobile?"

"Nevah but once, sah, and den ah didn't let all mah weight down."

—Everybody's Magazine.

Heard in Court. Lawyer—Don't you think you are straining a point in your explanation?

Witness—Maybe I am, but you often have to strain things to make them clear. —Boston Transcript.

Chance of a Lifetime. The eighty-pound husband was the defendant and the two-hundred-pound wife was the plaintiff.

"And why did you slap your wife's face instead of helping her when the automobile knocked her down?" inquired the judge.

"Well, your Honor," replied the diminutive husband, "opportunity knocks but once."

—American Legion Weekly.

He Was in a Way. "Do you know I seem to remember that fellow you were just talking to. Isn't he Owen Smith?"

"Shouldn't wonder. That's Ded-broke; he's owin' Smith, Brown, Jones and everybody."

Unlucky Simile. "I am as innocent as a child of the charge of stealing that there hog, Gap," protested an acquaintance.

"Well," replied Gap Johnson of Rumpus Ridge, Ark., "as I've got fourteen children and am tollably well educated in the possibilities and probabilities of the little cusses, I'll just say that your denial don't fetch you nuth'n' with me."

—Kansas City Star.

Exact Locality. "Does your employer, as alleged, live in melancholy sequestration?"

"No, sir; he lives in the suburbs."

Help! Help! News item—The wife of a merry-go-round attendant has sued for a divorce. Wonder if it's on the ground that her husband goes around with strange women.

—Boston Transcript.

"R. C. L. is added leverage in winning lawsuits."

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Exemption of Ford Car

In First State Bank v. Pulliam, 112 Okla. 22, 239 Pac. 595, the construction of the Oklahoma Statute providing that "automobiles and other motor vehicles shall not be exempt from attachment, execution and other forced sales," was involved; and the question was raised whether a Ford car was within the provision of that statute. The court said:

"It is not contended that a Ford car is a 'tool,' and we have never heard it called a 'tool,' although we confess to having heard it called everything else within the range of the English language and several foreign languages. If exemptions could ever have been claimed for it under § 6595, Compiled Statutes 1921, and prior to the act of 1913, it would have to fall within the term 'apparatus' and all lexicographers define 'apparatus' as an 'outfit of tools, utensils or instruments adapted to the accomplishment of any kind of work or for the performance of an experiment or operation; a set of such appliances, a group or set of organs concerned in the performance of a single function.'

"While a Ford car may emit as great a volume of sound as a steam piano or circus calliope, we are not prepared to say it is a set of organs and therefore not within the protection of the statute exempting 'apparatus' from attachment and execution."

See also annotations in 2 A.L.R. 827; 36 A.L.R. 670.

Balzac's Law Career

Balzac's father and mother had decreed that he should be a man of the law, and had previously placed him in a notary's office, and later with an attorney; but the young man's law studies only increased his determination to become a man of letters, much to his parents' disgust.

They considered that the best method of curing him of his foolishness would be to let him taste a little of the bitter fare of an author.

They installed him in an attic at No. 9 Rue Lesdiguieres, Paris, and allotted him just enough money to furnish the bare necessities of life. The wind and the rain beat through the flimsy attic roof, and the young novitiate in literature had to wrap the bedclothes around him while he wrote, to keep from freezing in winter, for he could not afford to buy fuel. A pint of milk and a roll were his daily rations, and thus every day he knew what hunger was.

But the harsh experiment, instead of discouraging Balzac, only made him more determined to attempt a literary career.—International Book Review.

A Heckler Silenced

An eloquent politician was constantly interrupted by a man in the crowd, who kept on shouting out "Liar!" After about the twentieth repetition, the speaker paused and fixed his eye on his tormentor. "If the gentleman who persists in interrupting," he said, "will be good enough to tell us his name, instead of merely shouting out his profession, I am sure we shall all be pleased to make his acquaintance."—The Argonaut.

Unkind

One day, at the table of the late Mr. Pease (dean of Ely), just as the cloth was being removed, the subject of discourse happened to be that of an extraordinary mortality amongst lawyers. "We have lost," said a gentleman, "not less than six eminent barristers in as many months." The dean, who was quite deaf, rose as his friend finished his remarks, and gave the company grace: "For this and every other mercy, the Lord's holy name be praised."—London Answers.

"R. C. L. is added leverage in winning lawsuits."